

AMENDED IN SENATE JUNE 15, 2004
AMENDED IN SENATE MARCH 30, 2004
AMENDED IN SENATE JULY 3, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 442

Introduced by Assembly Member Richman

February 14, 2003

An act to add and repeal ~~Section 42122.5 of the Education Code, relating to school finance~~; *Article 11 (commencing with Section 910) to Chapter 4 of Part 1 of Division 1 of the Public Utilities Code, relating to telecommunications.*

LEGISLATIVE COUNSEL'S DIGEST

AB 442, as amended, Richman. ~~School finance: budget disclosures~~
Telecommunications: regulatory streamlining.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including telephone corporations. Existing law authorizes the commission to fix just and reasonable rates and charges. Under that authority, the commission has adopted decisions adopting an incentive-based regulatory framework called the New Regulatory Framework for certain telephone corporations.

The existing Federal Telecommunications Act of 1996 preempts any state or local statute or regulation that may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service, but does not prohibit a state from imposing on a competitively neutral basis, requirements necessary to preserve and advance universal service, protect the public safety and

welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers. The prohibition also does not affect the authority of a state or local government to manage the public rights-of-way or to require fair and reasonable compensation from telecommunications providers, on a competitively neutral and nondiscriminatory basis.

Under existing law, the Federal Communications Commission licenses and partially regulates providers of commercial mobile radio service, including providers of cellular radiotelephone service, broadband Personal Communications Services (PCS), and digital Specialized Mobile Radio (SMR) services. Under existing law, no state or local government may regulate the entry of or the rates charged by any commercial mobile radio service, but is generally not prohibited from regulating the other terms and conditions of commercial mobile radio service. Where commercial mobile radio services are a substitute for land line telephone exchange service for a substantial portion of the telecommunications within a state, commercial mobile radio service providers are not exempted from requirements imposed by a state commission on all providers of telecommunications services that are necessary to ensure the universal availability of telecommunications services at affordable rates.

This bill would require the commission, by January 1, 2005, to commence a rulemaking or quasi-legislative proceeding to develop rules for harmonizing the regulation of the communications industry to eliminate regulations and policies that are no longer necessary as a result of technological advancements and competition in the communications industry, to promote competition, to promote investment that will improve quality of products, quality of service, and greater choices for consumers, and to promote economic growth. The bill would require the commission to adopt a final decision adopting rules by January 1, 2006. The bill would require that the commission rely on competitive forces in the communication industry to promote consumer choice and marketplace protection, whenever possible. The bill would provide that the transmission of communications over the Internet, whether by voice, data, video streams, or any combination thereof, does not, solely by reason of engaging in any of those activities, make a corporation or person providing the necessary software, hardware, transmission service, or the transmission path, a public utility or subject those activities to the jurisdiction of the commission. The bill would require the commission to report to the relevant policy



committees of the Legislature on recommendations for any statutory changes necessary to comply with, or to advance the purposes of, the bill. The bill would require the commission to use existing resources to comply with the provisions of the bill.

Existing law makes any public utility and any corporation other than a public utility that violates the Public Utilities Act, or who fails to comply with any part of any order, decision, rule, direction, demand, or requirement of the commission guilty of a crime.

The provisions of this bill would be a part of the act and would require an order or other action of the commission to implement those provisions. Because a violation of those provisions or a violation of an order or other action by the commission to implement those provisions would be a crime, the bill would impose a state-mandated local program by creating new crimes.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law requires the governing board of a school district to approve an annual statement of all receipts and expenditures of the district for the preceding fiscal year and to file the statement with the county superintendent of schools. Existing law requires the board to hold a public hearing on the district's proposed budget and requires the budget to show a complete plan and itemized statement of all proposed expenditures. Existing law requires the governing board of a school district to issue a school accountability report card annually. Existing law requires the school accountability report card to include, among other things, the estimated expenditures per pupil and types of services funding, the quality and currency of textbooks and other instructional materials, the total number of the school's fully credentialed teachers, and the number of teachers relying on emergency credentials.~~

~~This bill would impose a state-mandated local program by requiring the governing board of a school district with a pupil enrollment of 250,000 or more to provide to the public, until July 1, 2008, a summary of the plan and itemized statement of all proposed expenditures of the school district and to distribute that summary at public hearings where the budget will be discussed. The summary would be required to provide specified information on the prior and current fiscal years and~~



~~proposed budget year regarding, among other things, expenditures for personnel services, expenditures for facility maintenance, new construction, and modernization, average operating expenses per pupil and expenditures for books, supplies, and instructional materials.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 42122.5 is added to the Education Code,~~
2 *SECTION 1. Article 11 (commencing with Section 910) is*
3 *added to Chapter 4 of Part 1 of Division 1 of the Public Utilities*
4 *Code, to read:*

5
6 *Article 11. Communications Regulatory Streamlining*

7
8 *910. (a) The commission shall, by January 1, 2005,*
9 *commence a rulemaking or quasi-legislative proceeding to*
10 *develop rules for harmonizing the regulation of the*
11 *communications industry for the following purposes:*

12 *(1) Eliminating regulations and policies for the*
13 *communications industry that are no longer necessary or*
14 *appropriate as a result of technological advancements and*
15 *competition in the communications industry.*

16 *(2) Promoting competition.*

17 *(3) Promoting investment that will improve quality of products,*
18 *quality of service, and greater choices for consumers.*

19 *(4) Promoting economic growth.*

1 ***(b) The rules adopted by the commission shall protect existing***
2 ***policies that provide for the following:***

3 ***(1) Basic service at reasonable rates.***

4 ***(2) Incentives and transfer payments to provide universal***
5 ***service to low-income, disabled, rural, and high-cost customers.***

6 ***(3) Access to, or use of, the infrastructure of incumbent local***
7 ***exchange carriers by competitive carriers, consistent with***
8 ***requirements of federal and state law and the Federal***
9 ***Communications Commission.***

10 ***912. The commission shall rely on competitive forces in the***
11 ***communications industry to promote consumer choice and to***
12 ***advance the interests of consumers, whenever possible.***

13 ***913. The transmission of communications over the Internet,***
14 ***whether by voice, data, video streams, or any combination thereof,***
15 ***does not, solely by reason of engaging in any of those activities,***
16 ***make a corporation or person providing the necessary software,***
17 ***hardware, transmission service, or the transmission path, a public***
18 ***utility or subject those activities to the jurisdiction of the***
19 ***commission. Nothing in this section alters or affects state or***
20 ***federal law regarding surcharges or regulatory fees on voice***
21 ***communications over the Internet.***

22 ***914. The commission shall, by January 1, 2006, issue a final***
23 ***decision adopting rules consistent with this article. The***
24 ***commission shall use existing resources to comply with this article.***
25 ***The commission may issue rules and orders exempting the***
26 ***communications industry, including telephone corporations, from***
27 ***existing rules and orders of the commission, in furtherance of this***
28 ***article. The commission shall report to the relevant policy***
29 ***committees of the Legislature on recommendations for any***
30 ***statutory changes necessary to comply with this article or to***
31 ***advance the purposes of Section 910.***

32 ***SEC. 2. No reimbursement is required by this act pursuant to***
33 ***Section 6 of Article XIII B of the California Constitution because***
34 ***the only costs that may be incurred by a local agency or school***
35 ***district will be incurred because this act creates a new crime or***
36 ***infraction, eliminates a crime or infraction, or changes the penalty***
37 ***for a crime or infraction, within the meaning of Section 17556 of***
38 ***the Government Code, or changes the definition of a crime within***
39 ***the meaning of Section 6 of Article XIII B of the California***
40 ***Constitution.***

1 to read:

2 ~~42122.5.—(a) Commencing with the budget for the 2005-06~~
3 ~~fiscal year, each budget of a school district with a pupil enrollment~~
4 ~~of 250,000 or more shall also include a summary of the complete~~
5 ~~plan and itemized statement required pursuant to Section 42122.~~
6 ~~The school district shall make the summary available to the public~~
7 ~~and, at a minimum, distribute it at public hearings. The summary~~
8 ~~shall include, but not be limited to, the following information:~~

9 ~~(1) Itemized detail of the actual expenditures for the prior and~~
10 ~~current fiscal years, and the proposed budget year expenditures for~~
11 ~~personnel service, separately identifying salaries, benefits,~~
12 ~~incentive bonuses, or other forms of remuneration. Personnel~~
13 ~~services detail shall be further separately reported for certificated~~
14 ~~staff, segregated by type of credential, and classified staff.~~

15 ~~(2) The number and percentage of classroom teachers who are~~
16 ~~fully credentialed and employed by the district for the prior and the~~
17 ~~current fiscal years.~~

18 ~~(3) The number and percentage of classroom teachers~~
19 ~~employed by the district for the prior and current fiscal years who~~
20 ~~are serving without full credentials, including holders of~~
21 ~~emergency credentials, university interns, district interns, and~~
22 ~~preinterns.~~

23 ~~(4) The total expenditures for facility maintenance, new~~
24 ~~construction, and modernization for the prior and current fiscal~~
25 ~~years.~~

26 ~~(5) The average class size by grade levels.~~

27 ~~(6) Itemized detail of the actual expenditures for the prior and~~
28 ~~current fiscal years and the proposed budget year expenditures for~~
29 ~~operating expenses, separately identifying contract services, debt~~
30 ~~service, and capital expenditures. Contract services shall be~~
31 ~~further separately reported for legal services, engineering~~
32 ~~services, real estate services, and financial services.~~

33 ~~(7) The average operating expenses per pupil for the prior and~~
34 ~~current fiscal years, and the proposed budget year, separately~~
35 ~~identifying the costs of textbooks, other instructional materials,~~
36 ~~and instructional supplies.~~

37 ~~(8) All revenues by source, including state, federal, and local~~
38 ~~sources, separately identifying tax revenues from other revenues.~~
39 ~~Funds derived from the sale of bonds, revenue anticipation notes,~~

1 ~~certificates of participation, and other debt instruments shall be~~
2 ~~separately identified by issue.~~

3 ~~(b) This section shall become inoperative on July 1, 2008, and,~~
4 ~~as of January 1, 2009, is repealed, unless a later enacted statute,~~
5 ~~that becomes operative on or before January 1, 2009, deletes or~~
6 ~~extends the dates on which it becomes inoperative and is repealed.~~

7 ~~SEC. 2. Notwithstanding Section 17610 of the Government~~
8 ~~Code, if the Commission on State Mandates determines that this~~
9 ~~act contains costs mandated by the state, reimbursement to local~~
10 ~~agencies and school districts for those costs shall be made pursuant~~
11 ~~to Part 7 (commencing with Section 17500) of Division 4 of Title~~
12 ~~2 of the Government Code. If the statewide cost of the claim for~~
13 ~~reimbursement does not exceed one million dollars (\$1,000,000),~~
14 ~~reimbursement shall be made from the State Mandates Claims~~
15 ~~Fund.~~

